



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: December 5, 2005  
Comment Deadline: January 3, 2006  
Corps Action ID #: 200532259

All interested parties are hereby advised that the Wilmington District, Corps of Engineers (Corps) has received an application for work within jurisdictional waters of the United States. Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at [www.saw.usace.army.mil/wetlands](http://www.saw.usace.army.mil/wetlands)

**Applicant:** Wal-Mart Real Estate Business Trust  
2001 S.E. 10<sup>th</sup> Street  
Bentonville, Arkansas 72712

**AGENT:** Mr. Chris Grose  
Environmental Permitting Consultants, Inc.  
Post Office Box 2346  
Hendersonville, North Carolina 28793

## **Authority**

The Corps will evaluate this application and to decide whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures under Section 404 of the Clean Water Act (33 USC 1344).

## **Location**

The proposed project is located in the vicinity of an existing Wal-Mart in the southeast quadrant of the intersection of I-40 (Interchange 103) and U.S. 64, in Morganton, Burke County, North Carolina (35.7170°N-81.6948°W). The site contains two unnamed tributaries to Hunting Creek, Hunting Creek, and adjacent wetlands in the Catawba River Basin (8-Digit Cataloging Unit 03050101). The Catawba River reaches the Atlantic Ocean through the Cooper River in South Carolina.

## **Existing Site Conditions**

The tract is composed of approximately 5% commercial development and 95% upland forestland with some eroded gullies. The project site is depicted on the U.S. Geologic Survey (USGS) 7.5-minute topographic quadrangle (Morganton South, North Carolina) (Sheet 1).

Existing soils mapping provided by the Natural Resource Conservation Service indicates the proposed project area contains two soil series: Woolwine-Fairview complex and Fairview. These soils are on an 8-15% slope and a 2-8% slope respectively and both have a sandy clay loam texture in the upper portion of the soil profile. There are several small hydric inclusions located within the Fairview series mapping unit.

The project area is located within a sub-basin of the Catawba River Basin. There are three streams within the project area. These are two unnamed tributaries to Hunting Creek and Hunting Creek. Their receiving water is Warrior Fork that flows into the Catawba River. The Catawba River is located approximately 7.2 miles downstream (north) of the site.

The majority of the proposed project area is composed of cutover and mature forestland (mean DBH is 12 inches). Cutover areas are a result of logging activities. Tree species consist of mixed hardwood and pine. Canopy composition is dominated by chestnut oak (*Quercus primus*), flowering dogwood (*Cornus florida*), mockernut hickory (*Carya tomentosa*), pignut hickory (*Carya glabra*), sweet gum (*Liquidambar styraciflua*), tulip poplar (*Liriodendron tulipifera*), red maple (*Acer rubrum*), and Virginia pine (*Pinus virginiana*). Understory and herbaceous vegetative species in the forested and cutover areas on the site include pokeweed (*Phytolacca Americana*), blackberry (*Rubus spp.*), mimosa (*Albizia julibrissin*), wild lettuce (*Lactuca Canadensis*), Chinese privet (*Ligustrum sinense*), greenbriar (*Smilax spp.*), and honeysuckle (*Lonicera japonica*).

## **Applicant's Stated Purpose and Need**

The purpose of the proposed work is to construct a retail shopping center. The project is necessary due to the inadequacy of the existing structures and roads. Extensive site work will be necessary to prepare the site for construction.

## **Project Description**

The applicant has provided the following description of the proposed work. The proposed project consists of the construction of a commercial retail shopping center. The shopping center will consist of a newly constructed Wal-Mart as well as other commercial structures. Infrastructure (parking, access drives, storm water detention, etc.) will be constructed to service the new



facilities. The existing Wal-Mart store will be demolished to provide footprint space for the required parking areas and storm water detention.

Extensive grading will be required on the site to bring it to level with the existing development and U.S. 64. A perennial, unnamed tributary to Hunting Creek will need to be placed into pipe with appropriate fill material placed on top. This small tributary enters the property from a pipe under U.S. 64 and appears to have no exposed upstream origin. A larger unnamed tributary to Hunting Creek, into which the previously mentioned stream enters, flows behind and downslope from the proposed shopping center. A retaining wall approximately 45 feet high and 1,800 feet long is being constructed parallel to the larger tributary to maintain a 100-foot vegetative buffer along the riparian corridor.

In addition to the proposed retail center, the applicant is also providing a new access road from U.S. 64 to Walker Road. Currently, access to Walker Road is via a two way interstate entrance ramp and Williams Road. Both the NCDOT and the City of Morganton feel that the ramp is unsafe in its current configuration. To construct the new access road, a portion of the larger unnamed tributary to Hunting Creek will need to be piped for a crossing with associated fill material.

The site was selected for this project because it already houses an existing Wal-Mart store and other commercial development. The layout of the proposed development has been designed to minimize impacts to waters of the United States. The proposed road crossing is unavoidable and located in the most feasible place.

The proposed permanent impacts to perennial stream channels resulting from the placement of fill material associated with this project totals approximately 1,400 linear feet. In addition, proposed permanent impacts to wetlands will be 0.13 acre. Plans included with this notice show the overall proposed site layout.

### **Mitigation Proposal**

An in-lieu fee request has been submitted to the NC Ecosystem Enhancement Program to offset impacts to waters of the U.S. on this project.

### **Other Required Authorizations**

This notice and all applicable application materials are being forwarded to the appropriate State agencies for review. The Corps will generally not make a final permit decision until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice in the NCDWQ Central Office in Raleigh serves as application to the NCDWQ for certification. A waiver will be deemed to occur if the NCDWQ fails to act on this request for certification within sixty days of the date of the receipt of this notice in the NCDWQ Central Office. Additional information regarding the Clean Water Act certification may be reviewed at



the NCDWQ Central Office, 401 Oversight and Express Permits Unit, 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for certification under Section 401 of the Clean Water Act should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1650 Mail Service Center, Raleigh, North Carolina 27699-1650 Attention: Ms Cyndi Karoly by January 3, 2006.

### **Cultural Resources**

The Corps has consulted the latest published version of the National Register of Historic Places and is not aware that any registered properties, or properties listed as being eligible for inclusion therein are located within the project area or will be affected by the proposed work. Presently, unknown archeological, scientific, prehistoric, or historical data may be located within the project area and/or could be affected by the proposed work.

### **Endangered Species**

The Corps has reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information, the Corps has determined, pursuant to the Endangered Species Act of 1973 (ESA), that the proposed project may affect Dwarf-Flowered Heartleaf (*Hexastylis naniflora*), a federally listed (Threatened) species. Consultation under Section 7 of the ESA will be initiated and no permit will be issued until the consultation process is complete.

### **Evaluation**

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

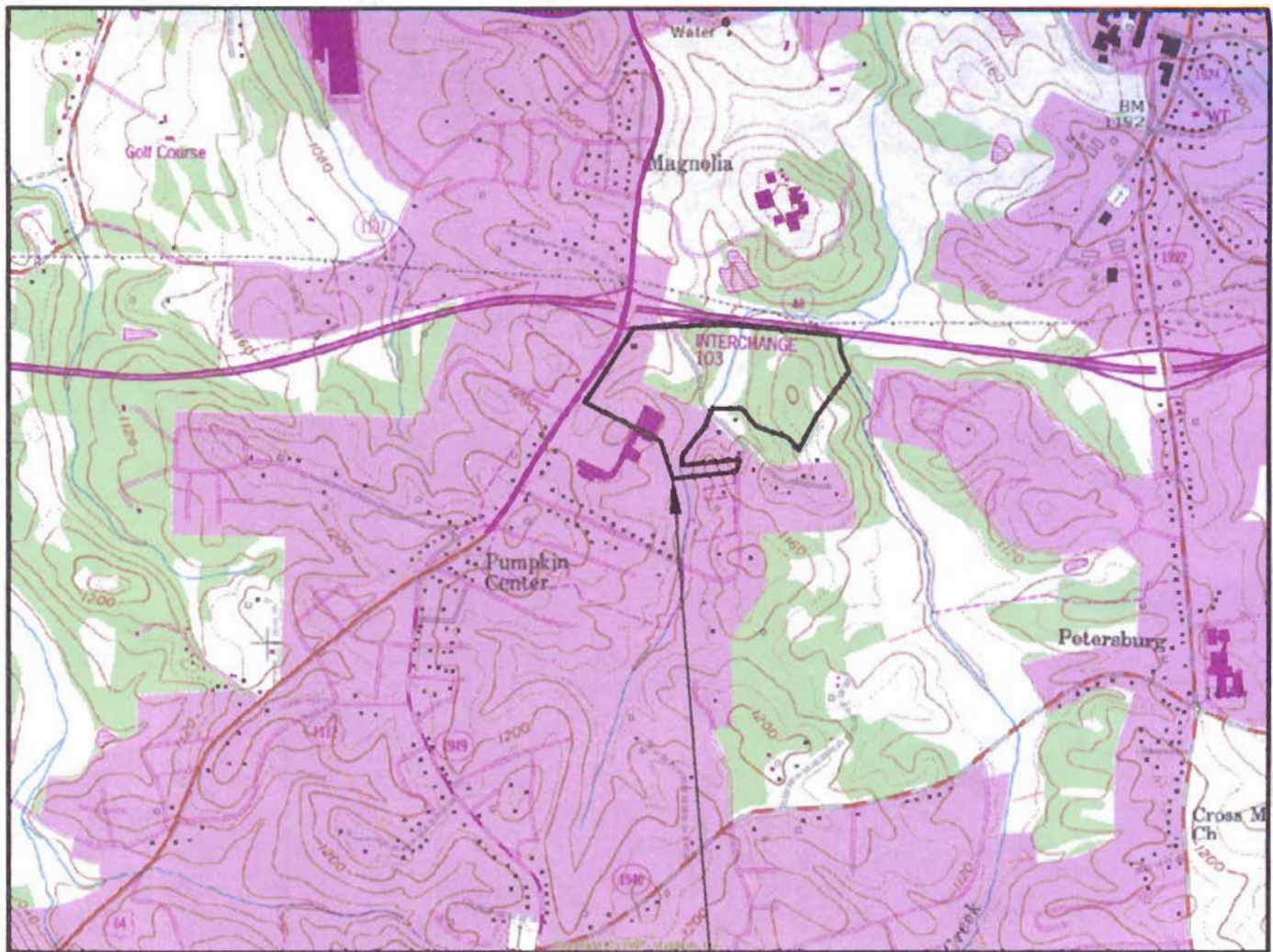
### **Commenting Information**

The Corps is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, January 3, 2006. Comments should be submitted to Mr. Steve Chapin, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006.



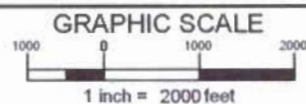


SITE LOCATION



SOURCE: USGS QUAD MORGANTON SOUTH

ENVIRONMENTAL  
PERMITTING  
CONSULTANTS, INC.



Post Office Box 3744  
Greenville, SC 29608  
Phone: (864) 271-3040  
Fax: (864) 715-0700

DRAWN BY: csg  
DATE: 21Jun2005  
FPC PROJECT NO: MR-05wd007

# TOPOGRAPHIC MAP

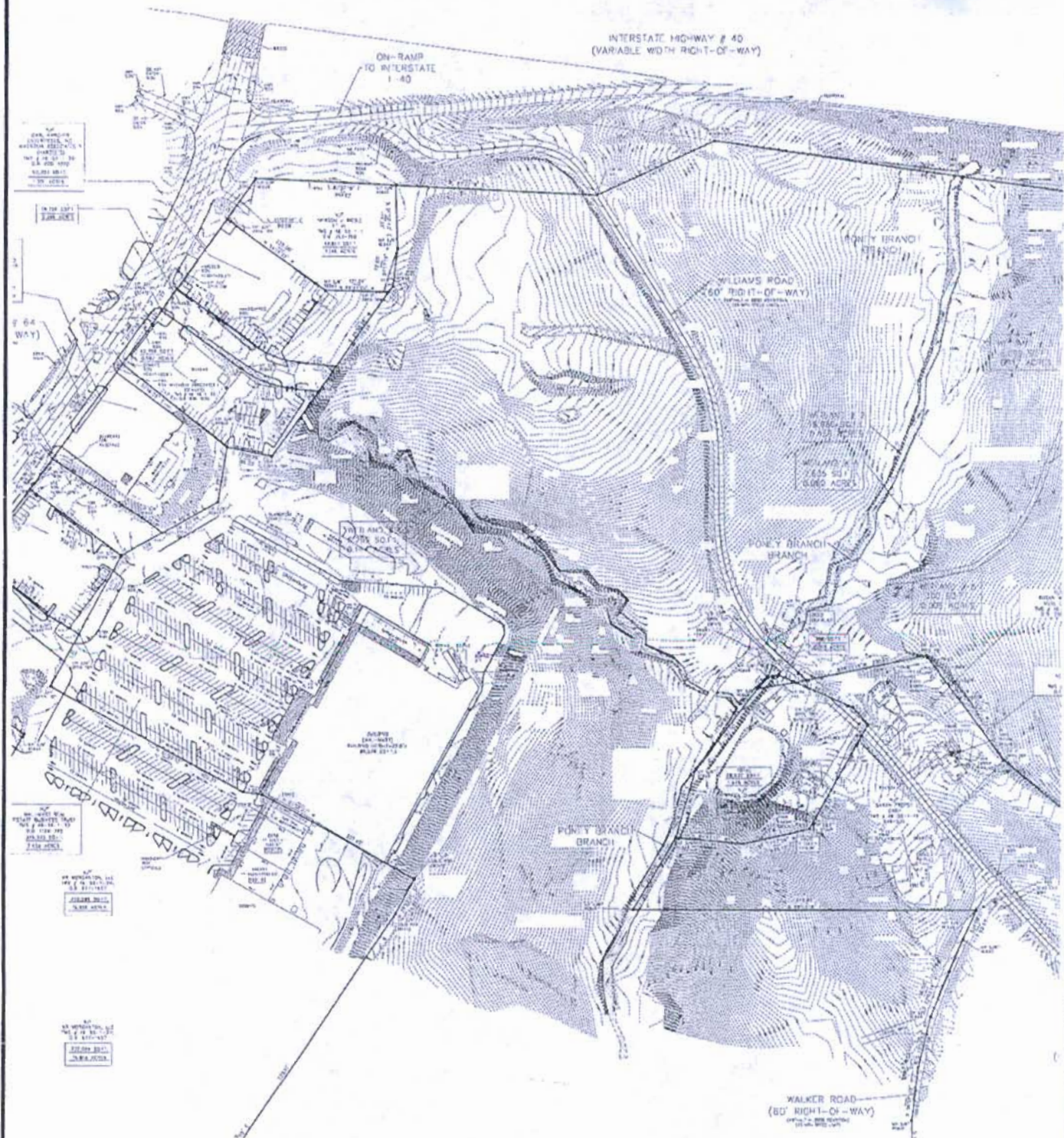
Morganton Wal-Mart  
Freeland & Kauffman, Inc.  
Burke County, NC

FIGURE NO.

1

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SHEET 1 OF 5





EXISTING CONDITIONS

SHEET NO.

2

RETAIL SHOPPING CENTER  
MORGANTON, NC

WAL-MART REAL ESTATE BUSINESS TRUST, LP  
2001 SE TENTH ST.  
BENTONVILLE, AR 72716  
PHONE: 479-273-4000

FREELAND and KAUFFMAN, INC.

Engineers \* Landscape Architects  
209 West Stone Avenue  
Greenville, South Carolina 29609  
ph: 864-233-5497 fax: 864-233-8915

SCALE: 1"=250'

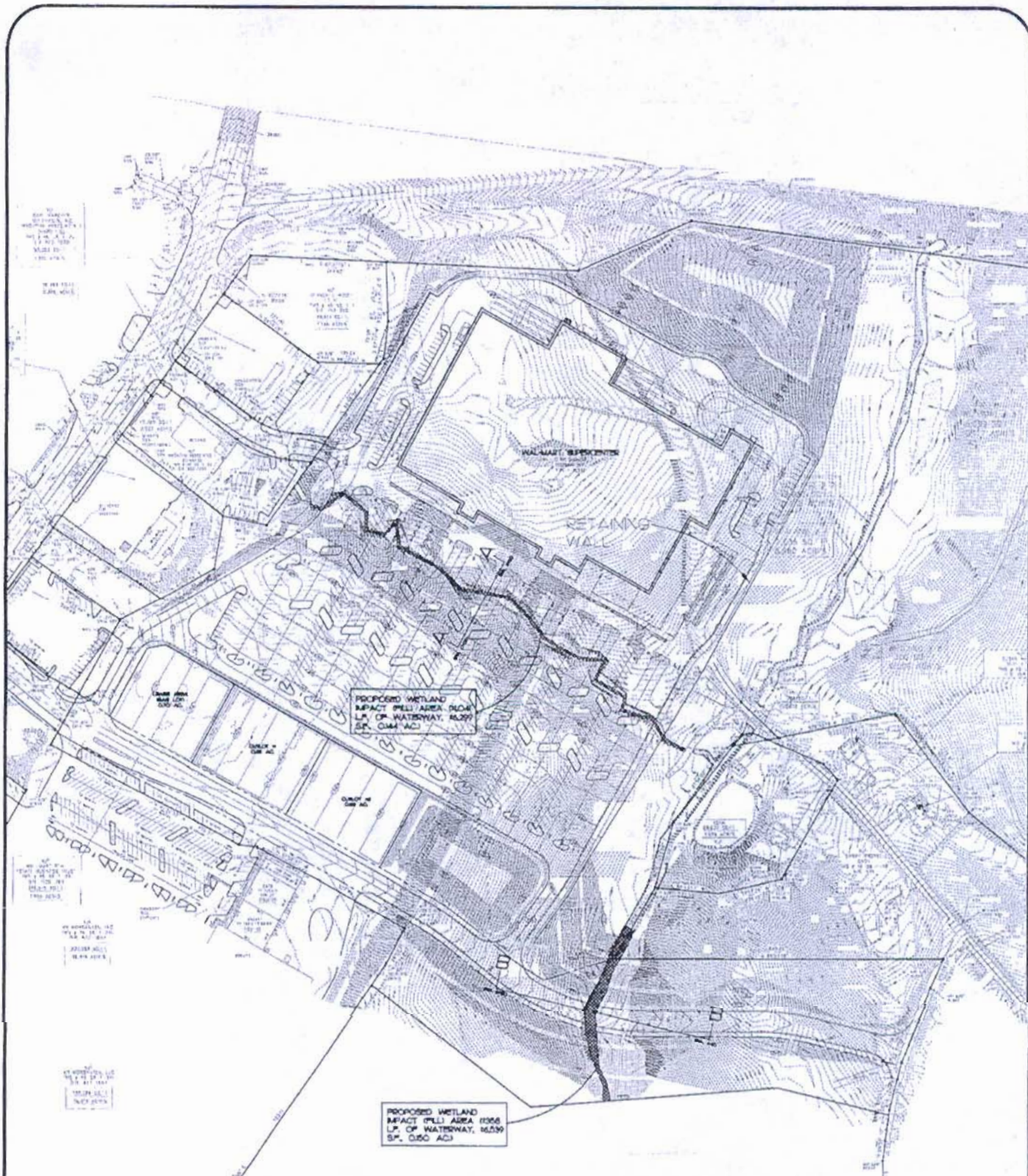
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SHEET 2 OF 5





## PROPOSED DEVELOPMENT CONDITIONS

SHEET NO.

3

RETAIL SHOPPING CENTER  
MORGANTON, NC

WAL-MART REAL ESTATE BUSINESS TRUST, LP  
2001 SE TENTH ST.  
BENTONVILLE, AR 72716  
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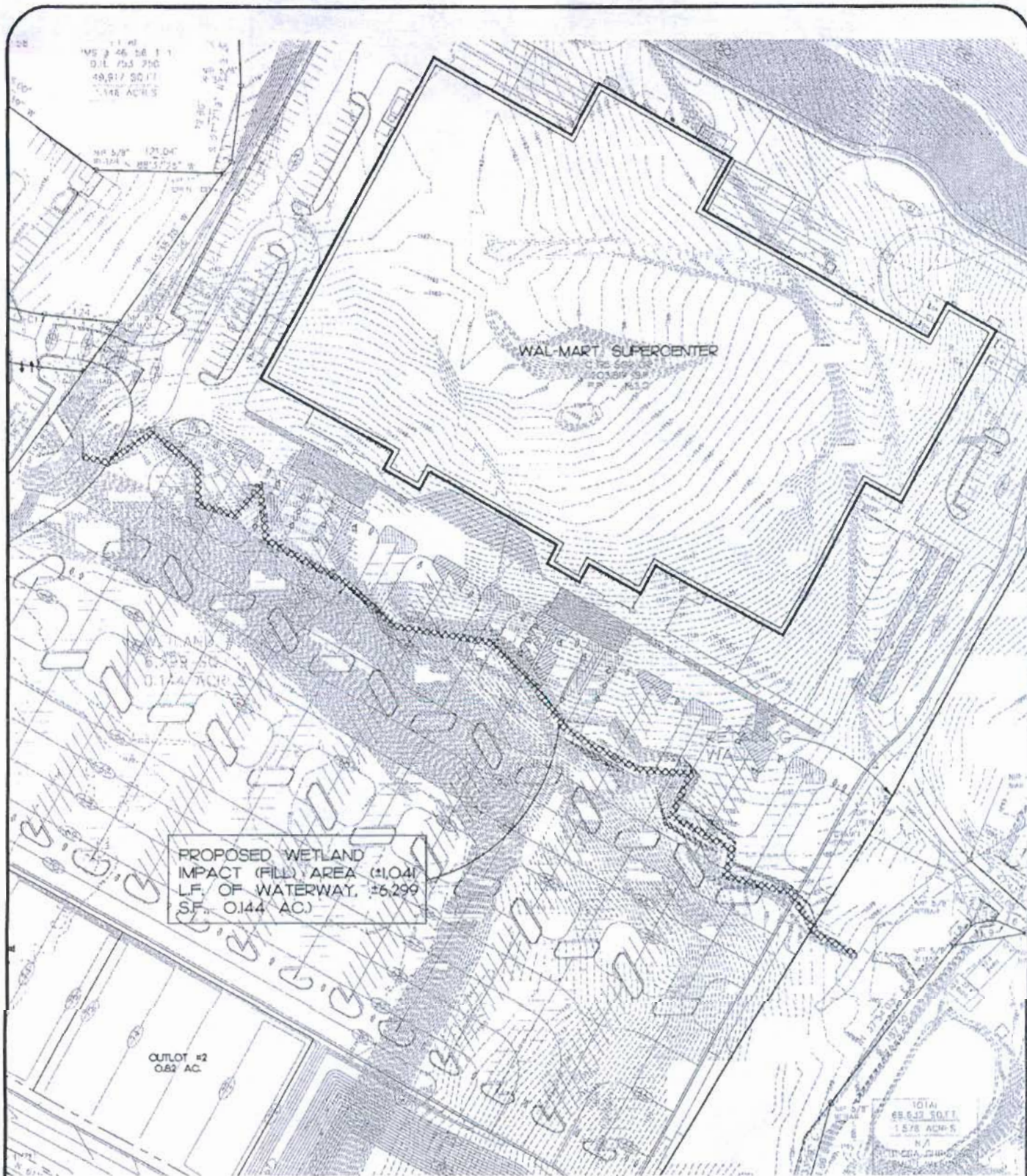
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SHEET 3 OF 5





# WETLAND IMPACT DETAIL ('A')

SHEET NO.

4

RETAIL SHOPPING CENTER  
MORGANTON, NC

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2001 SE TENTH ST.  
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SHEET 4 OF 5



